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Regional Economic Integration in Southern Africa: SADC's Protocol on Trade and South Africa's big Fingerprint

Paper prepared for the Workshop "Regional Integration in Comparison"

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by

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1. Introduction

With the end of the Cold War, a new wave of regionalism emerged in the shadow of an accelerating globalisation. This so-called 'New Regionalism' (Grant and Söderbaum, 2003; Hettne and Söderbaum, 1998) can be observed in various parts of the world and manifested in several more or less promising regional integration projects¹, notably among less developed countries in the southern hemisphere. All of them have a major focus on regional market integration.

This paper will try to answer the question why and for what purpose member states of the *Southern African Development Community* (SADC)² pursued the path of regional economic integration and decided to negotiate and adopt a common 'Protocol on Trade'. It has a rather strong focus on theory but the empirical part will not be marginalised as I will particularly look at the underlying motivations and preferences of the states and additionally try to illustrate the design, function, and added-value of the Protocol.

A variety of competitive political, economic or combined approaches (Haas, 1958; Huntington, 1996; Mattli, 1999; Moravcsik, 1998) tries to explain regionalism from different viewpoints but has mainly concentrated on developed countries and 'success-stories' in the 'North' – especially on the EU. Detailed, structured and theory-driven analyses of regional integration projects in the 'South' – particularly in sub-Saharan Africa – are rather missing yet or mainly of descriptive character (Adelmann, 2003; Lee, 2003; Mair and Peters-Berries, 2001; Oosthuizen, 2006; Vogt, 2007). According to most plain mainstream theories of international relations, the prerequisites for successful regional integration among countries in the latter regions are disadvantageous or lacking at all. This is due to e.g. the weakness of supranational institutions, missing or undeveloped (economic) interdependence between the states, and the absence of common identity and culture.

Taking a look on Southern Africa, SADC is an excellent example of a regional integration scheme belonging to the 'New Regionalism' of the 'South' and thus shall be the analytic case study of this paper. SADC's overall aim is to foster socio-economic development in the region and among its mostly less developed member states in a broad range of policy areas. Since the mid-1990s and the accession of South Africa, the organisation put a focus on economic integration which is regarded as a major development strategy. The 'Protocol on Trade' is one of the most important institutions of SADC altogether and the

¹ Examples include *inter alia* ALADI, ASEAN, ECOWAS, and Mercosur.

² In 1999, SADC consisted of Angola, Botswana, the Democratic Republic of the Congo (DRC), Lesotho, Malawi, Mauritius, Mozambique, Namibia, the Seychelles, South Africa, Swaziland, Tanzania, Zambia and Zimbabwe. Madagascar only became a member in 2005 and has been suspended from the organisation at present time due to the recent military putsch.

related bargaining process and its design reflect the preferences of the member states' in a very distinct way. Furthermore, its impact is assumed to be comparably far-reaching as it finally led to the establishment of the SADC Free Trade Area (FTA) in 2008.

With reference to an 'adjusted' Liberal Intergovernmentalism as underlying theoretical concept and a deduced hypothesis regarding economic integration in the 'South' and the SADC region, this theory-driven analysis of SADC's Trade Protocol will analyse the economic situation and (potential) interdependence in the region prior to the adoption of the Protocol, the related unanimous and conflicting preferences of negotiating (groups of) states, the bargaining process, the design, character and institutionalisation of the agreement. The whole analysis may allow drawing conclusions about the motivation, expected benefits and self-assertion of SADC's member states regarding economic integration in general and this institution on trade in particular.

By shining a light on the internal logic of regional economic integration in Southern Africa, its major driving-force, and the meaning of interregional (inter-)dependence and their influence on regional integration processes in the 'South', the insights of this empirical case could enrich and contribute to the general debate on theorising regionalism in- and outside Europe.

2. Theoretical Framework

In order to analyse, illustrate and explain regional economic cooperation and integration in the SADC area by scrutinising its Trade Protocol, this theory-driven analysis will basically follow the course of Moravcsik's Liberal Intergovernmentalism as underlying theory. However, this will not exclude valuable theoretical concepts and ideas of other schools of thought (Axline, 1977; Mattli, 1999; Schirm, 2002) which may enrich and contribute to Moravcsik's approach. The slightly adjusted Liberal Intergovernmentalism presented in this paper specifies its basic assumptions and enhances its explanatory power with regard to regional integration amongst less developed countries in the 'South' in general – and SADC in particular – by taking those structural characteristics of these regions and states explicitly into account which often evidently differ from the ones in the 'North'.

In a nutshell, Moravcsik argues that regional integration is a process and the product of subsequent national preference formation, interstate bargaining and institutional choice which is particularly initiated by the states' economic interests on the basis of intra-regional (economic) interdependence. The results of such negotiations and related institutions will eventually mirror the constellation of interests, possible asymmetric interdependences, and the relative power-position of participating negotiators/states with regard to their preferences

(Moravcsik, 1998: 19-77). Moravcsik's Liberal Intergovernmentalism has eminently contributed to the debate of regional integration and provides a very plausible theoretical framework with strong explanatory power. However, the overall and initial conditions, economic situation and point of departure in less developed countries of the 'South' and in SADC are in several respects different to the ones in the 'North' and in Europe. Therefore I propose to take the following aspects particularly into consideration:

First of all, the dense and differentiated economic interdependence between states and economies which can be observed in Europe or other advanced and industrialised regions is generally absent or rather undeveloped in most parts of the Third World. Instead, these regions and countries often have comparably strong inter-regional (economic) interdependences which frequently reflect age-old relations between former dependencies and their colonial masters. Furthermore, these regions are more likely to show features of a distinct asymmetric (economic) interdependence in case that one – or a few – states being part of these areas are comparably more advanced and developed than the rest. Against a background of generally poor socio-economic development, such a relative difference is likely to have more impact compared to regions where countries are more or less on the same level of development. This aspect particularly applies to the SADC region³, where intra-regional economic interdependence is of a hub-and-spoke character (McCarthy, 1998: 79): South Africa was and is the major trading partner for about half of the member states, while the other countries and the region in total show a strong inter-regional interdependence in its trade pattern. The intra-regional trade between the smaller member states themselves, i.e. excluding South Africa, is very little in SADC ((Tips), 2006; Oosthuizen, 2006).

Secondly, it can be additionally assumed that due to the low development of countries and weakness of intraregional economic interdependence, preferences in the 'South' to regionally cooperate and integrate in these policy fields may be caused and fuelled by the intention to pre-emptively clear obstacles for an expected, future economic interdependence that waits for the initial impetus. Thus, a crucial difference compared to regional economic integration in the 'North' is the fact, that regional integration in the 'South' is often not a reaction to actually prevailing intra-regional economic interdependence but rather a pre-action: A development strategy that aims to help and facilitate the anticipated (future) interdependence with its expected and related socioeconomic benefits to flourish.

Taking the process of preference formation and decision-making in less developed countries in the 'South' into consideration, of particular importance is the overriding aspect of

³ It similarly reflects to some degrees characteristics of *inter alia* ECOWAS with Nigeria and Ivory Coast being the hubs, and Mercosur with Argentina and Brazil as hubs.

striving for socio-economic development. Furthermore, their comparably weaker position in the global economy with strong dependence on external markets and influential third actors such as *inter alia* powerful states, regional organisations, international financial institutions, donors, trading partners, investors (Schirm, 2002) distinguishes them from countries in the 'North'. And not least the particularities of the 'weak' state in such regions in general and Africa in particular need to be taken into account (Bayart, 1989; Harbeson et al., 1994). Especially the aspect of economic dependency is assumed to have a strong impact on the underlying preferences of least developed countries as it provides external actors an opportunity to exercise leverage by sanctions/incentives on state. This relation and possible mechanism should gain special recognition and attention in all analyses of regional integration schemes in the 'South' in general (Axline, 1977; Axline, 1994: 23-26; Muntschick, 2008) and SADC in particular (Muntschick, 2008: 7, 9 f).

Closely related to these aspects of dependency is the fact that less developed countries in the 'South' are likely to be to certain degrees more constraint in their decisions, actions and policy-implementation compared to their counterparts in the 'North' due to *inter alia* poverty-caused lack of (state) capacity. This makes them again comparably more amenable to various forms of external/third actors' political or economic influence of powerful. Comparably weak and less pluralistic civil societies, neo-patrimonial and/or non-democratic rule, fewer and less sophisticated interest groups with an alleged under-representation and limited influence in many states of the 'South' suggest finally a last assumption: The process of preference-formation and articulation will generally be less comprehensive and possibly debated, influenced, and formed only by a rather small number of actors and stake-holders – at least in comparison to similar processes in the 'North' (Bayart, 1989; Chazan et al., 1999; Harbeson, 1994; Harbeson et al., 1994).

With regard to the bargaining process between less developed countries in the 'South', the influence and leverage of powerful external actors on such negotiations has to be taken into consideration in order to interpret the outcomes in a righteous way. It is likely to differentiate amongst participating countries and correlate to their degree of dependence on these external actors (Axline, 1994: 23-26). Additionally, in areas where projects of the 'New Regionalism' are still in their early stages, one probably cannot really speak of 'Grand Bargains' yet; there might even exist only a few at all. Thus any analysis of the 'South' has rather to focus on comparably smaller bargains – at least in comparison to conditions in Europe or the 'North' – which nevertheless are relatively 'grand' from the specific regional perspective.

Considering the institutionalisation of common agreements as last step in the process of regional integration, one can assume that less developed countries in the 'South' that are part of an integration project in its early stages are more likely to establish institutions that are of highly intergovernmental character. This assumption is reasonable against the historical background of many of these states (especially in Africa) who often only quite recently gained full sovereignty from their colonial masters. The intergovernmental character of early regional institutions is not least a phenomenon that was even not uncommon in the early stages of European integration. The 'credible commitment' aspect of institutions in the 'South' is probably of double-importance: Institutions might not only function inward-orientated to 'lock-in' agreements and commit members to the cooperation project. Additionally, they are likely to have an outward-orientated purpose by demonstrating the goodwill, action and transparency of the economically dependent countries towards third, external actors such as international financing institutions, patronising organisations, donors etc. in order to maintain or enhance (financial) support, attract Foreign Direct Investment (FDI), Official Development Assistance (ODA) and foreign aid, prestige etc. (Mattli, 1999: 58 f; Robson, 1993; Schirm, 2002: 20-23).

Summarising the insights for theorising and explaining regional economic integration in the 'South', the special political/economic situation and the asymmetric intra- and inter-regional interdependence of less developed countries need to be taken into particular account in order to deduce their preferences. The process of preference-formation and decision-making may be restrained and affected by the structural particularities of state and societies in such regions which are comparably easier accessible to external leverage than developed countries: A circumstance that can consequently directly/indirectly take effect on the bargaining-process, institutionalisation, and eventually fate of a whole integration scheme in the 'South', depending on its member states degree of extra-regional (economic) dependence.

Taking the situation in Southern Africa in general and the regional and interregional economic interdependences and dependences of the SADC region and its member states prominently into consideration, a plausible hypothesis regarding regional economic integration in this area – and possibly similar areas in the 'South' – could sound as follows: Regional economic integration in the SADC area will be mainly demanded, supported and driven by countries that already show strong intra-regional (economic) interdependence⁴ and/or expect future economic benefits from corresponding policies. The preferences for and degree of influence on the integration process will mainly depend on a country's economic

⁴ With reference to economics, this could e.g. manifest in a high share of intra-regional trade of a country's total trade or in its dependence on the region as source for FDI.

power position and the character of its economic interdependence to the rest of the region. This implies a very significant role for South Africa due to the hub-and-spoke character of its relations to the region. Furthermore, states in the SADC area are likely to follow their inward-orientated, region-related preferences as long as such policies will not conflict with preferences deriving from their (economic) relationship to external actors.

This hypothesis implies that extra-regional actors only have the chance to exert influence on the integration process in relation to the degree of their asymmetric interdependence with the respective, usually less developed regional actors. Due to the asymmetric nature of intraregional (economic) interdependence within the SADC area, extra-regional actors' leverage on SADC is thus likely to have most effect on the region and its member states if it is asserted on South Africa. As the region's dominant country and 'hub', it will then act as an 'amplifying transmitter' towards its 'dependencies' if effectively stimulated from 'outside'.

3. Preferences regarding Regional Economic Integration in SADC

3.1. Structural and congruent Preferences of all SADC Countries

Regional economic integration schemes among less developed countries can be outward and/or inward orientated. The following structural interests and very congruent preferences of all countries pursuing an 'open regionalism' can be deduced, even without drawing up a detailed analysis of the formation of the political will on national levels:

Due to its peripheral location and looming economic marginalisation in the course of globalisation, less developed countries in Southern Africa regard regional integration increasingly as a strategy to slowly integrate the SADC region into the very competitive global economy by creating an economically integrated and liberalised regional block as a first 'stepping-stone'. A regional economic and political framework with common institutions may help to strengthen a region's total economical standing and bargaining power in the globalising world where countries are increasingly interacting and negotiating – particular in trade matters – with powerful (economic) actors from the 'North' and other regional blocks (Schirm, 2002).

Regional economic integration implies the creation of an integrated market and the (gradual) elimination of trade-barriers of the participating countries. In case of a customs union, it leads to the establishment of common external tariffs on imports from 'outsiders'. For 'insiders', market integration can lead to a better exploitation of economies of scale and comparative cost advantages which will finally lead to an increase in intra-regional trade

(trade creation effect) with its alleged positive impact on corporate efficiency, profit, competitiveness together with overall socioeconomic benefits for the societies. According to theory, the relatively industrially and economically advanced countries will in a first step in particular benefit from regional economic integration due to polarisation effects (Balassa, 1961; Ravenhill, 2008: 172-209; Ricardo, 1977; Viner, 1950). This market-orientated approach towards regional economic integration is not anymore inconsistent with national macroeconomic policies of SADC members of which some followed 'African Socialism' and rather mercantilist import substitution policies in earlier times. Since the end of communism and the adoption of structural adjustment programmes, however, virtually all countries in Southern Africa show preferences for the expansion of regional and integration into global markets, gradual trade liberalisation, and export-led growth as major development strategy (Herrschel, 2007: 162-186).

Regional economic integration and related credible commitment institutions are furthermore assumed to better attract inflows of FDI to such areas. It provides potential investors a better business environment with a comparably larger, easier accessible, liberalised market than any single economy. Furthermore, participating countries are more likely to be dedicated to coordinated and harmonized trade and finance policies that are embedded in common – probably more stable – regional institutions (Ravenhill, 2008; Viner, 1950). This latter factor should not be underestimated against the African background. The effects of different types of FDI to less developed countries are subject to debate although the overall positive impact of FDI does overweight alleged negative implications. The main assumption behind is that those investments will bring fresh capital, lead to industrialisation, economic growth, creation of jobs, transfer of technologies and know-how, competitiveness and finally to an overall improvement of social welfare (Todaro and Smith, 2003: 635 ff). Thus the strive to attract FDI is an important demand factor for regional integration amongst less developed countries and this general preference thus applies for all states in the SADC region (Goldstein, 2004: 7 f; Schirm, 2002: 21).

In this respect SADC shows the distinct feature of asymmetric interdependence (again of hub-and-spoke character) and even 'double dependence': The majority of member states is strongly dependent on South African FDI and since the end of Apartheid, the country provides the major share of FDI to the region and was the top foreign investor in seven SADC countries between 1994 and 2003 (Grobbelaar, 2004: 93 ff; Page and Velde, 2004: 22-26). Today, South Africa is a more significant investor in the SADC area than the EU, the US or

Japan⁵. However, South Africa itself sources virtually all of its FDI from countries outside the region which makes SADC in total dependent on extra-regional FDI if one looks at absolute figures only (Goldstein, 2004: 45 f). Considering the attraction of FDI, the situation in SADC reveals that preferences for regional economic integration are as well outward- as inward-orientated: On the one hand particularly South Africa that wants to be more attractive for global investors by opening-up its *hinterland* and creating a larger market with the inclusion of neighbouring countries into a common economic sphere, on the other hand respectively most other countries that want to maintain or increase the inflow of FDI from South Africa which is their most important source (Lee, 2003: 148 f, 164 f; Odén, 2000: 261).

Beside these rather outward-orientated purpose and aspects, regional economic integration in SADC is nevertheless also inward-orientated and -motivated, as the issue on FDI has already indicated. Countries express preferences to gain benefits from economic cooperation and integration due to their actual and potential (!) intraregional economic interdependence⁶ which should develop and manifest in the future if appropriate policies are implemented. Thus alone the prospect and feasibility to increase intra-regional trade – which was only between 15-20 % in the year 2000 (Krapohl and Muntschick, 2008) – and skim-off related socioeconomic benefits is significantly relevant:

Comparative advantages in the region exist for the most part between South Africa and the rest of SADC, that is briefly speaking capital-intensive and manufactured products respectively labour-intensive, agricultural products and natural resources (Qualmann, 2003: 141-143). If harmonisation proceeded, trade barriers were removed and better infrastructure provided within the region, intra-regional trade could grow by an estimated 3.6 billion US-\$ in the areas of agricultural and unprocessed food products, (precious) minerals and metals, yarns, paper products and particularly fossil energy sources (Chauvin and Gaulier, 2002: 24 f; Vogt, 2007: 283 f). Within three years of the establishment of a SADC FTA, intra-regional trade could climb to about 35 % of the region's total trade (Adelmann, 2003: 52). Furthermore, some share of the assumingly existing vast amount of informal trade could be directed into formal channels by measurements of tariff reduction and trade facilitation (Holden, 1996: 25; Lee, 2003: 104 ff).

However, plain tariff reduction and liberalisation of regional trade have to be flanked with policies aiming to remove non-tariff barriers (NTBs) to trade in order to take the desired

⁵ Interview conducted with Mike Humphrey (EPA Support Facility Programme Manager at SADC) at SADC Headquarters in December 2008.

⁶ In this respect one should not forget that intra-regional interdependence is not restricted to economic matters and does exist in several policy areas (e.g. with reference to crime, migrants, energy, water, infrastructure, health, security, tourism). States in Southern Africa recognise that regional cooperation and integration in those sectors could help them to take advantages by overcoming collective action or coordination problems.

beneficial effect. Although NTBs may suit as countermeasures to comprehensive trade liberalisation for poorer countries in SADC – and in the ‘South’ – that source considerable revenues from external trade taxes, (unintentional) NTBs in general pose a serious and costly barrier to any liberalisation of trade. Countries seeking to increase intra-regional trade have to design and implement substantial policies for NTB-removal parallel to tariff reduction in order to gain positive effects of formal free trade (Ebrill and Stotsky, 1998). Health, safety and environment NTBs, Trade Policy NTBs, and Administrative NTBs are most significantly affecting the actual liberalisation of trade and any potential for increasing intra-regional trade among less developed countries in general and SADC members in particular (Austral, 2004; Ebrill and Stotsky, 1998). Deficiencies of the infrastructure and insufficient trade-supporting services should additionally be included into the last category's array of NTBs in the African context (Pierides, 2008: 14-16). In Southern Africa the most significant NTBs predominantly belong to the last category. A removal of NTBs of this last category is rather indisputably in the interest of all countries in the region, as complicated customs procedures, border delays, high transport costs⁷, and congested and poor transport-routes cause no advantage for anyone. Particularly the landlocked states in the SADC region, for which South Africa has been for historical reasons the major transport-hub with regard to their intraregional and extra-regional trade, have strong preferences for NTB-removal in a regional context for structural reasons ((Tips), 2008; Pierides, 2008; Teravaninthorn and Raballand, 2009).

While the above section gave an impression of SADC countries' congruent and rather indisputable preferences that are generally supportive for regional economic integration, the following sections will highlight country (-group) specific interests that show potential for conflict and intra-regional bargaining.

3.2. Country and Country-Group specific Preferences

It seems to be adequate to cluster SADC member countries with fairly similar preconditions and interests prior to the negotiations on the ‘Protocol on Trade’ into categories or groups of countries. If appropriate, the analysis of the preferences of a single country representing the whole group could be meaningful to give a general illustration of the latter. With respect to economic power, degree of intra-regional economic interdependence and geography, the following grouping of SADC member countries seems to suit the purpose:

- The Republic of South Africa (RSA), the regional economic hegemon and (trade-)hub

⁷ For example, a recent study figured out that on a selected route (Durban-Gaborone) the costs of NTBs accounted for about a quarter of the total vehicle running costs (Pierides, 2008).

- The BLNS states (Botswana, Lesotho, Namibia, and Swaziland) who are SACU members
- Core countries, often landlocked, with strong intra-regional economic interdependence
- Countries and island-states on the periphery with limited economic interdependence

In this section, the economically motivated preferences of countries prior to the negotiations on the 'Protocol on Trade' should be mainly deduced from their actual trade pattern⁸ and expected future benefits. Geopolitical or idealistic motivations shall not be analysed in detail at this point, although they will be touched shortly particularly with reference to the national preference-formation process in South Africa where complex information is available and comparably easy accessible.

3.2.1. South Africa

Apartheid left behind a stalled, overregulated and rather dysfunctional economy that was to various degrees disconnected and isolated from regional and global markets due to sanctions and Apartheid-related policies (Becker, 1988: 61-63). In 1994, the new South African government gained the freedom of action to shake off the burden of the past, particular with regard to its macro-economic and trade policies which changed considerably towards trade liberalisation and regional economic integration in order to take advantage of the country's economic potential. The recognition of the politico-economical situation during the transition-period is crucial for understanding South Africa's preferences and point of departure in the negotiations on the SADC Protocol on Trade (Adelmann, 2003: 63-70; Chipeta and Schade, 2007: 66 f; Hentz, 2005: 62).

The period directly preceding SADC's trade negotiations was a time of great debate between different political parties, interest groups, business, the administration and their respective preferences for the new post-apartheid South Africa and its future macroeconomic and regional trade policies. Generally speaking, the *African National Congress* (ANC), South African Labour –organised in the *Congress of South African Trade Unions* (COSATU) – together with the *South African Communist Party* (SACP) and small and medium-sized (mostly Afrikaner-owned) businesses advocated a comprehensive developmental approach with strong state-involvement regarding future regional cooperation in Southern Africa. Only a gradual liberalisation of trade within the region was preferred. Furthermore, additional protective and flanking measures of industrial and labour policies on national and regional level were desired due to their strong dependence on regional markets and the great number of

⁸ In this context I like to issue a warning: Plain trade data in Southern Africa, particularly with respect to intra-regional trade in SADC, should not be over-interpreted or uncritically used as a single explanatory variable because they are often very oscillating, lack validity due to missing values, poor reporting and compilation, and disregard informal trade which is rather significant in these regions (Kalaba et al., 2008; Lee, 2003).

jobs in the related industries. The ANC as major political actor saw SADC as an ideal vehicle to overcome the country's decade-old 'laager mentality' by fostering comprehensive regional integration beyond plain market integration (Cosatu, 1999; Hentz, 2005: 44-51, 107, 442-446; Westhuizen, 1998: 439-446).

The *National Party* (NP) together with the South African administrative apparatus and its Afrikaner-dominated bureaucrats and civil servants expressed preferences for a linear step-by-step approach on regional market integration, focussing especially on regional trade and monetary integration. With regard to SADC, this aim should be accomplished by building on existing institutional strengths such as the *Southern African Customs Union* (SACU) and the *Common Monetary Area* (CMA) which should act as model, core, and building-blocks. Instead of 'deep' regional integration with the much poorer neighbouring countries, they rather supported the idea of bilateral economic agreements and particularly rejected the ambitious aims of SADC to become a political union in the future (Hentz, 2005: 51-56).

South Africa's influential parastatals⁹, conglomerates and big businesses followed the line of Apartheid politics. They opposed the ANC's approach and advocated regional ad-hoc cooperation within SADC¹⁰. This should ideally manifest in bilateral (economic) agreements and functional cooperation, notably in infrastructure. Particularly the *South African Chamber of Business* (SACOB), representing the interests of big businesses, urged to not neglect extra-regional trade policies over regional interdependence and dismissed the idea of deep, formalised and comprehensive regional economic integration under the umbrella of SADC; not least due to the fact that several of its members were strongly outward-orientated in their trade-relations. Although regional functional cooperation within SADC was strongly advocated by South African parastatals and big business with regard to those areas where crucial regional interdependence existed and high profits could be expected (e.g. energy, communication, and infrastructure for facilitating better regional trade), the idea of comprehensive developmental integration was rejected (Grobbelaar, 2004: 102 f; Hentz, 2005: 56-61; Taylor, 2007: 154 ff).

Having illustrated the very domestic level, the country's overall preference towards regional market integration is assumed to be in general supportive – with confinements and boundary conditions. Additional, rather structural preferences can be deduced from the country's economic interdependence with the SADC region:

⁹ To these belong *inter alia* Portnet, Transnet, Spoornet, Petronet, Sasol and Eskom (Hentz, 2005).

¹⁰ In South Africa, relations between business and government have been very close since Apartheid. In the post-Apartheid state, business interests are still able to influence national policymakers to a strong degree as already mentioned before (Taylor, 2007; Tleane, 2006; Vogt, 2007).

The Republic of South Africa (RSA) is – and has been – an economic giant in regional terms and a fairly industrialised and developed nation according to global standards. The country contributes at present time about 70 % to the region's total GDP and about 65 % to its total trade volume (Oosthuizen, 2006: 255 ff). The comparably strong economic interdependence of South Africa with other SADC countries is asymmetric and of hub-and-spoke character – not least because of trade relations that developed in colonial times. The RSA was and is the major trading partner for about half of the region's countries and its trade-balance was throughout very advantageous for the first for decades up until today ((Tips), 2006: 131-147; Hentz, 2005: 103-108).

Besides its economic power manifesting in trade quantity and value, South Africa's economy and its array of exports (basic manufactures, minerals, precious metals and metal products, transport equipment, chemical products, machinery, processed food etc.) is quite diversified. The Republic's exports to SADC and its members consist/have consisted mainly of capital-intensive value-added manufactured goods while imports are/were composed largely of labour-intensive, lower-value primary commodities such as raw materials and unprocessed agricultural products ((Tips), 2008: 131-147; Oosthuizen, 2006: 255 ff). This reflects the existence of regional comparative advantages and in fact reminds of a classical 'North-South' trade pattern: A fruitful interaction between the RSA and the rest of SADC with regard to comparative advantages is most likely to occur in sectors that are very labour-intensive (Bauer, 2004: 30) natural/mineral resources, agricultural products, chemicals, certain foodstuffs, and particularly fossil energy (Chauvin and Gaulier, 2002: 24 f; Cureau, 2004: 103 ff; Odén, 2001: 90 f). Thus, South Africa has a significant but yet unexploited potential to substitute some imports from overseas with equivalent complementarities from SADC member states.¹¹

With regard to its economic preferences, in a nutshell, South Africa's regional trade policy is likely to be committed to a SADC trade regime similar to the SACU agreement. There is little doubt that with the opening of regional markets and the liberalisation of trade – by the SADC-wide implementation of such a protocol and within a SADC-FTA, South Africa's export-orientated economy could strongly benefit from exploiting additional economies of scale, possibly comparative advantages and flooding the much lesser developed neighbouring countries with its own capital-intensive manufactured and chemical products that often cannot compete on global markets yet (Adelmann, 2003: 63-70; Chipeta and

¹¹ According to some analysts, this asymmetric regional interdependence, comparative cost advantages together with the potential for increasing intra-regional trade, and the better chance to (economically) dominate the region were major reasons why the RSA chose to become a member of SADC instead of COMESA after the end of Apartheid in 1994 (Draper, 2005).

Schade, 2007: 68 f; Draper et al., 2006: 35-38). Although only about 10 % of South Africa's total exports are destined to SADC at present time, about $\frac{1}{3}$ of South Africa's total exports from the capital-intensive manufacturing sector – which has been becoming increasingly important with regard to the country's total exports – ships to SADC-members ((Tips), 2008: 131; Qualmann, 2003: 29). It was/is in the strong interest of the RSA to 'capture' and expand the access to this significantly important (Hanlon, 1986: 60 f) regional market through an adequately tailored regional trade regime¹² – not least in order to accommodate demands of South African investors.¹³

Beside these interests, which are supportive towards open regionalism, South Africa additionally had rather protectionist preferences in the forefront of the negotiations on the Trade Protocol: especially concerning its export-orientated and relatively labour-intensive sugar industry, the textile and clothing sector – and to lesser degree even the automotive industry – where competition loomed from neighbouring countries which have/had competitive advantages; often due to the cheap cost of labour (Hentz, 2005: 105, 172).

The case of the sugar industry and sugar market is a symptomatic example and gives a clear picture of South African preferences for protectionist policies and the influence of its powerful and influential interest groups that conflict with the proclaimed aim of comprehensive regional market liberalisation. Although, prior to the trade negotiations, the sugar industry in Zimbabwe was the most efficient in the region and thus would have had an comparative advantage to regional competitors especially with regard to South Africa, the latter opposed strongly a full liberalisation of the regional trade in sugar due to its strong national sugar lobby and the numerous employees (about 130.000 in 1995) working in this sector (Lee, 2003: 124 ff). It added to its lobbying-power, that the South African Sugar Industry is of highly oligopolistic nature with three giants (Illovo, Tongaat-Hulett and Transvaal Sugar) owning most of the production-sites, contributing the utmost share to South Africa's total production and thus controlling the national sugar market. Furthermore, South African producers are for a long time highly organised in the *South African Sugar Association* (SASA) whose explicit initiation is to protect national growers and millers. As the SASA had a strong say in the country's sugar export policies and programme since Apartheid times, it does not come as surprise that its influence on present South African trade policies is still influential and notable (Goldstein, 2004: 21).

¹² Interview conducted with Mike Humphrey (EPA Support Facility Programme Manager at SADC) at SADC Headquarters in December 2008.

¹³ Out of the 100 top African companies (referring to turnovers), 74 are from South Africa. They do business in every sector and market-segment and are often engaged in Joint-Ventures with enterprises in neighbouring SADC countries (Versi, 2005).

Thus, in a nutshell, by the time of negotiating the SADC 'Protocol on Trade', South Africa's autarkic, inward-orientated trade and industrial policy preferences had already substantially shifted towards an export-oriented strategy of industrialisation and trade. However, the country's regional and global trade policies remained to some degree ambiguous: Because of its trade pattern and due to the opposing influence of several (groups of) domestic actors with protectionist interests (Hentz, 2005: 88).

3.2.2. The BLNS-States

For historical reasons and due to membership to SACU for nearly a century, the economies of the BLNS states show a trade-pattern that has always been characterised by a strong, asymmetric (inter-)dependence to the SADC region, with utmost focus on South Africa/SACU (Davies, 2000: 272). Prior to the negotiations on the Trade Protocol, all four countries already sourced more than $\frac{3}{4}$ of their total imports from the SADC region and their intra-regional export-share accounted for more than $\frac{1}{2}$ of their total exports (with the exemption of Botswana which exported less to the region). The trade flows between the small BLNS countries and the rest of SADC respectively the RSA are similar to a classic 'South-North' trade pattern which perpetuates not least due to the protective external borders of SACU (Mccarthy, 1999).

Regarding the trade negotiations for liberalising trade within the SADC region under a proposed Protocol on Trade, the preferences of all BLNS states are assumed to be quite similar: As they already import the lion-share of their total imports of goods from a region free of tariff-barriers to trade, a further liberalisation of trade within the whole SADC region would not have much effect to their trade pattern – at least no negative effect. With regard to the exports of the BLNS countries, the situation is to a certain degree similar as the utmost share of their total intra-regional exports is destined to South Africa where trade is already liberalised. The potential for exports from the BLNS states to other countries in the SADC region is rather limited, perhaps with the exception of Botswana, due to an apparent lack of economic complementarities ((Tips), 2008). Due to these economic background and circumstances, thus the preferences for the BLNS in the trade negotiations about tariff reductions and liberalisation of trade in the SADC region would be indifferent or neutral with regard to their import-pattern of trade and rather positively open-minded or supportive with regard to their export-pattern as there could be the chance to open up and realise yet unexploited – although probably narrow – trade-potential in the region ((Tips), 2006). Regarding the possible reduction and removal of NTB within the framework of a regional trade agreement, the preferences of the BLNS are similar as the major trade flows of the

countries are not heavily affected by NTBs due to SACU membership. However, one can assume an even more positive attitude towards such measurements as the benefits of NTB removal (e.g. reduction of time delay at border posts) are very obvious.

Nevertheless, the relatively supportive attitude of BLNS-countries towards SADC-wide regional economic integration is likely to cool down in at least two respects:

Reservations towards SADC-wide trade liberalisation are likely with respect to industrial sectors and product groups where comparably high regional competition exists, as e.g. textiles and garments. A reduction of the protective SACU customs duties would then cause a danger to the BLNS states' corresponding industries which would face serious competitors from the rest SADC, e.g. Mauritius, Zimbabwe, Malawi ((Tips), 2006). More meaningful reservations are likely if the reduction of tariffs and import-duties at the external borders of SACU is perceived to result in significantly lower customs revenues. As the latter contribute a large share to the BLNS national budgets, the smaller SACU members are definitively dependent on this source of income (Draper et al., 2006: 40; Jenkins et al., 2000: 64; Lee, 2003: 141). Thus they oppose any substantial dilution of SACU import-duties which could result in net revenue losses that not cushioned by compensatory measures or an adequate increase of intra-regional trade.

In a nutshell, the economically founded preferences of the BLNS states towards trade liberalisation in SADC will be somehow indifferent but rather supportive, particularly with regard to the removal of NTB. Possible benefits are only related to potential gains of increased exports to non-SACU SADC members as trade within SACU is already liberalised and at levels with little potential for further growth. However, the preferences and bargaining-power of the BLNS states will anyway be comparably negligible or irrelevant in any SADC trade negotiations due to their SACU membership and South Africa's dominant position.

3.2.3. Core Countries

All of SADC's core countries are characterised by a strong intra-regional economic interdependence to the region with South Africa as major trading partner and most important export-market ((Tips), 2006). Zimbabwe will be chosen to represent this group at this stage of research as comprehensive information on domestic preference formation of many of the core countries is not easily accessible at this time:

Zimbabwe shows a regional trade-pattern closely interlinked with several Southern African states, particularly the former British colonies South Africa, Zambia, Malawi, and Botswana. Back in the 1990s, the Zimbabwean economy was one of the few within the SADC region that had a diversified export base and was fairly industrialised with a notable

manufacturing sector. Due to its comparably huge and diversified agricultural sector, the country was called the 'Breadbasket' of Southern Africa and agricultural products, and (processed) foodstuffs have been the major part of the country's exports up until the millennium. Beside several labour-intensive agricultural products (e.g. sugar, tobacco and cereals), it was the capital-intensive manufacturing/automotive industry which gave reasons to expect gains from comparative advantages in the region (Hess, 2001; Weeks and Mosley, 1998; Zwizwai, 2007).

After independence, the Zimbabwean trade policies under the socialist ZANU-PF-lead government focussed initially on regional market penetration and not on the global economy, particularly as it was recognised that the local industry and the manufacturing sector could not compete successfully on markets outside the region yet. In the old *Southern African Development Coordination Conference* (SADCC), Zimbabwe dominated intra-regional trade with about half of total regional exports and one third of intra regional imports (Haarlov, 1997: 90; Hanlon, 1986: 90). By the 1990s, in the course of externally motivated structural adjustments programmes, Zimbabwe increasingly turned towards a rather market- and export-growth orientated approach of development and became more interested in regional economic integration and trade liberalisation measurements. Due to the country's strong intra-regional economic interdependence with intra-SADC trade shares of about 28,1 % of total exports respectively 45,5 % of total imports in 1999 (Table 1), a liberalisation of regional trade and the reduction of tariffs and non-tariff barriers to trade in Southern Africa was likely to be in Zimbabwe's interest. Particularly since the end of Apartheid in South Africa marked an end of embargos and politically motivated reservations against economic cooperation. However, at the same time some sectors of the Zimbabwean economy – particularly the automotive and textile industry – feared negative impact from unconditioned regional trade liberalisation as their major competitors were/are located in neighbouring South Africa/SACU (Hess, 2001; Zwizwai, 2007: 17-21, 41-46).

If one looks at the policy papers and frameworks of national trade promotion agencies (e.g. *Zimtrade*), these policies, which concentrate on exploring new profitable markets and increasing trade with traditional regional markets, are widely congruent with SADC's stand on regional trade promotion. According to various surveys among Zimbabwean business and companies, tariff and non-tariff barriers are perceived as major obstacles to intra-regional trade. Particularly the customs tariffs, the import duties and taxes which have to be paid, and the time consuming customs procedures are mentioned as very high ranking obstacles to trade within the SADC region (Zwizwai, 2007: 88-90). Against generally negative assumptions about political participation of interest groups in present day Zimbabwe, the involvement of

various non-governmental stakeholders and economic entrepreneurs in the policymaking process has been fairly effective since the creation of the well-institutionalised *National Consultative Economic Forum* (NCEF) and its formulation of economy-related policy preferences (Zwizwai, 2007: 81 f).

In a nutshell, prior to the negotiations about SADC's 'Protocol on Trade', Zimbabwe's preferences – and to varying but similar degrees the ones of the other core countries – seem to be generally in favour for regional trade liberalisation because regional markets in the SADC area are important trade destinations, especially for agricultural products, textiles, and the light manufacturing sector. Nevertheless, reservations against regional trade liberalisation were articulated from sectors facing serious competition from its regional counterparts.

3.2.4. Peripheral Countries

Prior to the negotiations of the SADC Protocol on Trade, the trade-pattern of peripheral SADC countries like Tanzania, Mauritius, the Seychelles, Angola and to a lesser degree the DRC was – and still is – characterised by a comparably low economic interdependence to the SADC region. At best asymmetrical trade relations exist with South Africa (especially in case of the DRC), but otherwise major trade partners of this category of countries are either directed to overseas or towards other regional arrangements, e.g. COMESA ((Tips), 2006).

With regard to existing trade data, the deduced economic preferences of such peripheral countries – like Mauritius or Tanzania who will represent this grouping – are expected to be rather indifferent and neutral towards regional trade liberalisation as such measures would only affect a comparably little share of their total trade¹⁴. However, the potential for an expansion of trade – particularly with South Africa in the labour-intensive agricultural, food and partly manufacturing sectors where most comparative advantages exist – is surely given and has been recognised by these countries¹⁵. Thus, the chance to exploit a yet untapped potential for increasing intra-regional trade through regional trade liberalisation is assumed to be one driver for these peripheral countries to pursue policies of regional economic integration. Since the 1990s, these countries increasingly followed an export-/growth-orientated market approach towards development and regarded trade liberalisation, the opening of new (regional) markets, and the step-by-step integration into the global economy as major strategy to achieve growth and socioeconomic development on the national

¹⁴ Actually, Angola, the DRC and the Seychelles have not yet become part of the Trade Protocol.

¹⁵ This yet untapped economic potential contributed probably to the shift of Tanzania's regional alignment and led to its withdrawal from COMESA in the year 2000 (Mashindano et al., 2007).

level (Mashindano et al., 2007: 193; Rakotonjatovo and Ramilison, 2007: 100; Sobhee and Bhowon, 2007: 68-73).

Mauritian imports from and exports to SADC have been 11,5 % respectively 1,4 % of total trade in 1998 (Table 1) of which the major share is trade with South Africa. In comparison with other regional arrangements of the 'South', trade with SADC member states nevertheless outweighs trade with COMESA or the *Indian Ocean Community* (IOC). Being an island and sourcing to some degree its imports from 'neighbouring' South Africa, a liberalisation of trade and removal of tariff and non-tariff barriers is surely generally in the interest of Mauritius, particularly referring to the regionally highly efficient clothing, foodstuff and sugar industry ((Tips), 2006: 63-85). On the sub-national level, private economic stakeholders and societal actors are involved in the policy-making process through the *Mauritian Chamber of Commerce* or the *Joint Economic Council* where lobbying is possible and influence is exerted. Thus, in a nutshell, the Mauritian preferences towards SADC-wide trade liberalisation are generally supportive although reservations of certain, regionally highly competitive sector industries which are predestined to become subjects of tough negotiations do exist (Sobhee and Bhowon, 2007).

In Tanzania, the trade-pattern with SADC is quite similar: the intra-regional trade-share of the country's total exports and imports is 7,4 % respectively 11,6 % of imports (Table 1). The major trading partner in the region is South Africa while trade with other SADC members is yet comparably negligible. Since the recent years prior to the negotiations on the SADC 'Protocol on Trade', Tanzania and its ruling party¹⁶ follow the same market approach towards regional economic integration and increasingly turned away from its ideology of African Socialism and related import-substitution policies. On the national level, Tanzania proves its preferences to create an export-led and growth orientated economy which is integrated with its regional partners and openness towards global trade in its *National Trade Policy Framework* (Mashindano et al., 2007: 58, 193). Besides tariff barriers to trade, considerable NTBs to Tanzanian trade with the other countries in the region are seen in the lack of market information, tiresome export procedures and high transportation costs according to surveys among the local business community (Mashindano et al., 2007: 111 f). With the removal of these barriers to intra-regional trade (tariff reduction and e.g. the harmonisation of customs procedures), Tanzania could intensify trade with South Africa and increase its exports to the SADC region, particularly in the labour-intensive agricultural and food sector where comparative advantages – and the lion-share of yet unexploited trade

¹⁶ Tanzania's long-time ruling party is the *Chama Cha Mapinduzi*, i.e. *Party of the Revolution*.

potential – seems to exist, particularly in ‘cash-crops’ ((Tips), 2006: 186 f; Mashindano et al., 2007: 193).

3.3. Summarising the Preferences

Against the background of an increasing globalisation, the overall preferences of SADC member-states have in general turned to be supportive towards regional economic integration, ‘open regionalism’, trade liberalisation, and related policies prior to the negotiations of the common SADC trade-regime. Beside these congruent outward-orientated preferences, inward-orientated aspects strongly matter as different countries and groupings nevertheless express reservations towards unconditioned regional trade liberalisation.

Generally one can assume that the higher the actual economic interdependences or expected increase in trade of a member country with the rest of the SADC region is, the higher will be its general support for regional economic integration due to the potential benefiting effects. However, the more similar and competitive the economies of a country towards its regional counterparts are, the less the preference to liberalise trade in this respect as this would lead to higher intra-regional competition and endanger local producers.

4. Trade Negotiations and the SADC ‘Protocol on Trade’

The SADC ‘Protocol on Trade’ gives legal and practical effect to the member states’ commitments regarding regional economic integration under the SADC Treaty and the creation of a regional FTA. In order to have the SADC-FTA established, the member states acknowledged that 85 % of total SADC-trade in goods has to be liberalised and free from customs duties in order to achieve this goal (Lee, 2003: 138). The remaining 15 %, mostly sensitive products, are scheduled to be phased down by 2012 (Kalaba and Tsedu, 2008: 1). Although the early version of the Protocol was developed and signed after a short period of time (7 months) in 1996, the negotiations regarding the actual details took about three years and 19 rounds of bargaining until it was amended, ratified and entering into force in 2000 (Lee, 2003: 112).

These major negotiations on its details and core issues took place within the stipulated institutional framework of the *Trade Negotiation Forum* (TNF), the *Committee of Senior Officials* and several other sub-committees and related bodies. The TNF was and is the major arena of bargaining where “the process and the method of eliminating barriers to intra-SADC trade, and the criteria of listing products for special consideration, shall be negotiated”.¹⁷ Furthermore, its tasks include *inter alia* “regular reviews in which offers shall be made and

¹⁷ SADC, 2000: Protocol on Trade, Article 3e. <http://www.sadc.int/index/browse/page/161> ((03/05/2009)).

where the removal of non-tariff barriers shall be requested or offered”, the “establishment of a linkage between trade liberalisation and industrial policy coordination”, and particularly “the establishment of a regional framework on the phased reduction and eventual elimination of tariff and NTBs to trade among Member States.”¹⁸

4.1. Unanimity: The General Content

The congruent and often rather outward-orientated preferences of the member states did not lead to severe bargaining and manifested in the indisputable and rather ‘soft’ paragraphs of the Protocol’s general content:

In this respect, the Protocol on Trade expresses the need to cooperate in economic matters in order to enhance trade-flows, increase investment, combat illicit trade, and adjust to international standards. This is regarded vital for successful economic integration and the realisation of the overall ‘goals of development’. It calls for the elimination of barriers to intra-SADC trade, obliges the participants to reduce/phase-out existing tariffs and duties, and envisages the creation of a SADC-FTA within eight years after ratification. However, it allows for the stipulation of common Rules of Origin (RoO) in order prevent the inflow of extra-FTA products via the member country with the lowest trade barrier into the regional market. The Protocol emphasises repeatedly the need for NTB-removal through various specified measures and regional policies (e.g. standardisation and harmonisation regarding customs procedures), demands states to take steps to enhance economic development and diversification of industries by promoting an open cross-border investment regime and emphasises the importance of trade in services for economic development. With reference to the SADC Treaty¹⁹, the protocol encourages member states to cooperate with third countries and organisations to achieve the proclaimed objectives and thus pays tribute to the issue of overlapping and multiple memberships of SADC member states in various integration schemes. Finally, the Protocol determines and establishes adjunct institutional arrangements and dispute settlement procedures (Sadc, 2008: 4).²⁰

Summarising the general content of SADC’s Protocol on Trade, the bulk of it contains paragraphs, policy directives, and obligations that surely do mirror the countries’ respective trade policies and intentions which are supportive towards regional economic integration and ‘open regionalism’ in general. These congruent, rather outward-orientated and unconditional preferences to regional market integration – particularly the related removal of tariff and

¹⁸ SADC, 2000: Protocol on Trade, Article 31, 4c, d. <http://www.sadc.int/index/browse/page/161> (03/05/2009).

¹⁹ SADC, 1992: Declaration and Treaty of SADC, Articles 21, 24. <http://www.sadc.int/index/browse/page/119> (03/05/2009).

²⁰ SADC, 2000: Protocol on Trade. <http://www.sadc.int/index/browse/page/161> (03/05/2009).

NTBs to trade – were not subject to severe bargaining. They find expression in the Protocol's general content with its relative ambiguous clauses, non-specific and visionary aims, and abstract proposals that demand further (legal) specification to gain capacity to act.

4.2. Conflict and Compromise: Tariff Reductions Schedules, Rules of Origin, and Sensitive Products

In contrast to the congruent interests and general contents of the Protocol, the details and supplements of the Protocol prove a different situation with contrasting inward-orientated preferences of the negotiators: The toughest bargaining in the TNF concerned the specific design of the Protocol in areas with conflicting preferences between the negotiating states and country-groupings: Trade offers regarding the schedule and composition of the products/goods to be liberalised, the complex issue concerning the RoO, and special agreements on sensitive products. Without anticipating too much, the performance of South Africa during the corresponding TNF negotiations was outstanding and distinctly mirrored the country's dominant position in the region, its politico-economical influence, and advanced capacity. In the numerous bargaining-rounds of the TNF, the South African position and interests were insistently represented by the presence and inclusion of several sophisticated South African societal and private (business) actors who strengthened the country's bargaining-power significantly; not least because of their numerous physical appearance and the use of advanced IT-technology (Vogt, 2007: 199).

With regard to the tariff reduction schedule, it was agreed that all participating states were allowed to make two different offers: one to South Africa and one to the rest of SADC countries. This decision was made in response to pressures from the BLNS states and other least developed member states. It recognised the economic asymmetry between the RSA and the other considerably less developed SADC members and aimed to cushion the potentially negative effects of trade liberalisation to the latter states' economies by giving them some spare time to prepare for entering a liberalised regional market. In general, the offers regarding the less developed countries included better access to the respective national markets due to slightly stronger reduction of tariffs compared to the offers directed to South Africa. This implies a 'success' of economically weaker countries to prolong the protection of their markets against South African products, although the differences of offers were only quite marginal (Erasmus et al., 2004: 7; Flatters, 2001: 8; Lee, 2003: 116-119).

Concerning the design of the tariff reduction schedule, the bargaining manifested in a linear approach to tariff reduction and an asymmetrical strategy. Regarding the first, products were divided into four categories (A, B, C, E) of which three were subject to different time

slots for liberalisation (A: immediate liberalisation; B: gradual liberalisation; C: 'sensitive products', liberalisation later than 8 years; E: exclusion list²¹) after the Protocol coming into force. Regarding asymmetric strategy and the gradual liberalisation of category B goods, it was agreed that countries were to be divided into three categories:

- Category I: Developed countries, i.e. SACU members
- Category II: Developing countries, i.e. Mauritius and Zimbabwe
- Category III: Least developed countries, i.e. Malawi, Mozambique, Tanzania, and Zambia.

This compromise acknowledged the different degrees of economic power and development of countries. While SACU countries with their comparably strong economies had to reduce tariffs within 8 years (frontloading), countries belonging to category II and III were allowed to start their liberalisation process gradually later, i.e. within 4-8 years (midloading) respectively 6-8 years (backloading) after the Protocol coming into force (Sadc, 2008: 7 f).

The Rules of Origin of the Protocol are of special interest with regard to the general argument of this paper as they reflect the institutionalisation of diverging and conflicting preferences of the negotiating member states in this very tough bargaining-process of regional trade liberalisation. According to its regulation, goods generally enjoy preferential treatment if they wholly origin in SADC or are produced by using imported materials of undetermined origin whose value "does not exceed 60 per cent of the total cost of the materials used in the production of the goods" or "the value added resulting from the process of production accounts for at least 35 per cent of the ex-factory cost of the goods" or "there is a change in the tariff heading of a product arising from a processing carried out on the non-originating materials."²² However, preferences of countries to protect their 'sensitive' – or rather uncompetitive – industries caused countries to champion for exemptions and more restrictive RoO in the respective sectors as they can act as NTB-like, protective instrument to hamper unconditional trade liberalisation.

It was often South Africa/SACU that represented a position quite different to the rest of the other participants. The initially proposed RoO for SADC where comparably simple, non-restrictive and closely aligned to COMESA's RoO. Not least due to their simplicity they had a strong outward-orientated character. In SADC however, various concerns of South Africa/SACU in the course of an increased involvement of their national stakeholders into the negotiation-process lead to lengthy bargaining about sector- and product-specific RoO. This

²¹ They relate to goods (e.g. firearms and ammunition) that are rather irrelevant for intra-regional trade.

²² SADC, 2000: Protocol on Trade, Annex I, 2b:

<http://www1.sadc.int/english/documents/legal/protocols/documents/trade/annex1.doc> (02/04/2009).

finally resulted in an amendment of the initially-agreed RoO (Brenton et al., 2005: 13-17; Lee, 2003: 130).

The general motivation for South Africa/SACU to demand tougher product-specific RoO was to protect its market from the inflow of competing products via non-SACU members which are made from extra-regionally imported, cheap materials, e.g. originating in Asia (Brenton et al., 2005: 27). Besides its alleged purpose to protect the countries' sensitive sectors and industries in this respect, the strictness of relevant RoO particularly reflects in many parts those sectors and product groups where most perceived competition between South Africa (!) and the rest of SADC existed at the time of negotiation:

Looking at the agricultural sector, distinctly restrictive RoO have been imposed on coffee, tea, spices, tobacco and certain products of the milling industry. Wheat flour and certain products made of wheat flour and cereals are exempted from preferential trade yet. Considering the manufacturing and industrial sector, a variety of particular electronic products of the 'screw-driving industries' – such as e.g. electrical motors and generator, electro-mechanical domestic appliances, and electronic consoles – have no specific RoO yet and remain exempted from preferential trade. Furthermore, products and components of the vehicle and motor industry – such as e.g. (road) tractors, chassis, and bodies – became subject to restrictive RoO.²³ The array of goods being subject to these very strict RoO reflects mainly rather labour-intensive industrial branches that exist to a significant degree in South Africa and (existed) to a lesser degree in Zimbabwe. Thus the design of the RoO mirror strongly the prevailing national preferences for conditioned regional trade liberalisation and particularly the self-assertion of South Africa, and the lobbying of its influential domestic actors in this respect (Brenton et al., 2005; Cosatu, 1999; Hentz, 2005).

However, the most complicated RoO can be found in the labour-intensive textile and garments sector where intra-regional competition is very high and conflicting country-preferences existed between many SADC countries (e.g. South Africa, Zimbabwe, Mauritius, Malawi). Reservations against liberalisation of trade in this sector were fuelled by the significance of the respective local industries and their strong domestic lobbies, such as e.g. the *South African Textile Federation* (Brenton et al., 2005: 27; Flatters, 2004: 55). Despite some exemptions, the general RoO regarding textiles and garments demand a double transformation for qualifying as goods for preferential trade. That implies that garments and clothing have to be manufactured from regionally produced fabrics and textiles which in turn have to be made from regionally fabricated yarns which additionally have to meet some minor

²³ SADC, 2000: Protocol on Trade, Annex I, Appendix I.
<http://www1.sadc.int/english/documents/legal/protocols/english/documents/legal/protocols/documents/trade/ListApp1Ann1.pdf> (02/05/2009).

requirements in order to qualify at all²⁴ (Brenton et al., 2005: 13-17; Lee, 2003: 130; Vogt, 2007: 205 f).

The negotiations concerning the sensitive sectors/products were also not easy because intra-SADC competition in these sectors (especially light manufactures and automotives, footwear and leather, clothing and textiles, sugar) is/was comparable high and the respective goods subject to high national protective tariffs. Due to the fact that these rather labour-intensive industries and sectors feed many employees in the respective countries and were backed by comparably strong lobbies, the negotiation process was tough and rather uncompromising (Draper et al., 2006: 78-82; Lee, 2003: 119 ff). With regard to sensitive products and their time schedules for liberalisation of trade, not least the negotiations and compromise on sugar and textiles give prominent examples about the divide of countries and their conflicting preferences within SADC: In general it was again South African/SACU who formed one block of countries (protected by the union's common external tariffs) versus the rest of SADC's members which were less developed, more or less asymmetrically (inter)dependent with the South African/SACU-block, and thus eager to easier access the union's market. Both agreements are the result of a series of mutual offers and tough bargaining with influential domestic lobby-groupings behind (Lee, 2003: 130-137).

The *SADC Sugar Cooperation Agreement* comprises an agreement on the trade in sugar which has been adopted and implemented by SADC countries in the year 2000 against the proclaimed background of a dumping of sugar-prices on the world market. However, the real reasons for this agreement lie within the region and: a highly competitive regional sugar market. In 1998, South Africa, Mauritius, Zimbabwe, Swaziland, Malawi, Zambia and Tanzania were the major sugar producing countries²⁵ in SADC with several thousands of people directly and indirectly being employed in this labour-intensive sector (Lee, 2003: 122-126). The intention of the *SADC Sugar Cooperation Agreement* is to fully liberalise regional trade in sugar by 2012. At its core, however, the agreement is an obstacle to free trade and only stipulates an asymmetric, non-reciprocal liberalisation of the sugar-trade between South Africa/SACU and non-SACU member states of SADC in the interim period (first until 2005, eventually until 2012) on a complicated quota-system until full liberalisation is finally reached. Only non-SACU SADC members with a net-surplus in sugar production²⁶ are

²⁴ SADC, 2000: Protocol on Trade, Annex I, Appendix I.
<http://www1.sadc.int/english/documents/legal/protocols/english/documents/legal/protocols/documents/trade/ListApp1Ann1.pdf> (02/05/2009).

²⁵ The enumeration is in descending order, with South Africa producing nearly as much as the rest altogether.

²⁶ These are Mauritius, Malawi, Mozambique, Zambia, and Zimbabwe.

granted non-reciprocal duty-free access to the SACU market with quotas of +/- 40,000 tons for each country.²⁷

SADC's second separate trade regime on sensitive goods, the *Regulation on the tariff Quotas, time periods, and arrangements for the administration and enforcement in respect of products of HS chapters 50 to 63 exported to SACU by MMTZ*²⁸ member states was adopted in 2001 and is quite similar to the agreement on sugar with regard to its aims and institutionalisation. Dealing with textiles and garments, it provides for an asymmetrical, non-reciprocal liberalisation of trade – namely a waiver of the general double transformation RoO – and a quota-system between South Africa/SACU and the least developed SADC member states (MMTZ) in the interim period (until 2006, eventually until 2012) until full liberalisation of trade should come into force²⁹ (Brenton et al., 2005: 27; Lee, 2003: 132-135). The SADC-MMTZ trade regime on textiles and garments reveals its ambivalent character which is again similar to the *Sugar Cooperation Agreement*. On the one hand it seems to pursue trade facilitation between South Africa/SACU and the MMTZ-states in this sensitive sector and obviously grants some of the poorest states in the region certain benefits due to its asymmetrical character. However, it is without doubt on the other hand only a mere alleviation of the restrictive implications of the SADC Protocol on Trade.

Nevertheless, the character of these two separate supplements does not solely reflect the dominance of South Africa and the antagonism between developed and less developed countries in SADC. It additionally illustrates the possibility of compromise, and concession as important parts of a bargaining-process and the ability of economically weaker (groupings of) less developed countries to 'assert' themselves with certain success against the preferences of the dominant actor (Brenton et al., 2005: 16; Erasmus et al., 2004: 16).

4.3. Effects:

An evaluation of the impact of the Protocol on intra-regional trade is difficult as many other factors may exert influence. Although the overall picture is probably not brilliant at all, however, the share of intra-regional trade (exports and imports) of many SADC members has grown – with oscillating figures – over the recent years. This, and the increase in absolute terms, not least indicates that existing comparative advantages are increasingly exploited although one should not over-interpret the data and impact. Of particular importance is the

²⁷ SADC Protocol on Trade, 2000: annex VII, articles 4-6.

<http://www1.sadc.int/english/documents/legal/protocols/documents/trade/annex7.doc> (03/05/2009).

²⁸ The so-called MMTZ countries are Malawi, Mozambique, Tanzania, and Zambia.

²⁹ SADC Protocol on Trade, 2000/2001: Annex I, Appendix V.

http://www1.sadc.int/english/documents/legal/protocols/documents/trade/annex1-app5_1.doc (03/05/2009).

fact that South African is increasingly sourcing imports from the region: although they are still on a low level, they quintupled since 1999 and are of significant importance for the economically weaker regional neighbours (Table 4, 5, 6, 7). If the economy in Zimbabwe would not have collapsed and badly affected the region, the impact of the Protocol is likely to be stronger.

With regard to NTBs, the picture is ambivalent but rather positive. Some significant and common regional NTBs of the past – such as e.g. pre-shipment inspections, price controls, foreign currency controls, state marketing, and import licensing – have been abolished by most member states in accordance with the Protocol. However, the implementation of several directives has not been accomplished by all members yet (Nyambe and Schade, 2008: 15-17). Regarding customs cooperation and simplification, the introduction and implementation of the single customs administrative document by some regional customs authorities seems to have taken positive effect already and led to a reduction of transit times by about 40 % in commercial vehicle traffic along the route South Africa-Zimbabwe-Mozambique-Malawi (Mthembu-Salter, 2008: 16).

Concerning the inflow of net FDI to SADC countries, liberalisation of trade and regional economic integration might have a positive effect, particularly if one takes into consideration that 'market size' – according to surveys – is the major motivation of investors to locate their assets and investments in Southern Africa (Jenkins and Thomas, 2002: 28). Other studies likewise found a statistically significant positive relationship between the growth of SADC's trade and an increase of FDI-inflows (Bezuidenhout and Naudé, 2008).

There is a general agreement in the academic literature that South Africa is likely to gain most from regional economic integration in SADC, as the country can benefit most from comparative advantages, economies of scale and removal of barriers to trade. In a larger SADC market, polarisation-effects could take effect and boost the South African economy and industries to the disadvantage of the smaller, non-industrialised member states. However, parallel to better market access and the removal of NTBs and customs duties the RSA is likely to invest increasingly in those countries in turn (Jenkins and Thomas, 2001: 167-170).

5. Conclusion

Summarising the insights, the SADC Protocol on Trade is surely an outward-orientated instrument with the aim to strengthen SADC's economies and to integrate the region gradually into the global markets. However, in major parts it is strongly inward-looking and to certain degrees rather trade-restricting than trade-facilitating. Although it's proclaimed intention is comprehensive trade liberalisation and market integration in order to

gain from related socio-economic benefits and enhance SADC's competitiveness and economic position in a globalising world, this unanimous, cross-country preferences manifest at most only in the 'soft' general contents of the Protocol. In fact, virtually all participating states took a rather egoistic and nationalistic perspective during the bargaining process: In areas of high competition and conflicting interests, compromise was not easy and the states tried to protect their vital and labour-intensive industries, sensitive sectors, and did not refrain to impose obstacles to the desired intra-regional free trade –fearing regional and international competition in these sectors and product-categories. Particularly the complex RoO are complicated, confusing and partly unfavourable to overall intra-SADC trade as they are often very restrictive and are suspected to cause disadvantageous effects for the region as such (Brenton et al., 2005; Erasmus et al., 2004).

However, they are in major parts a manifest and expression of South Africa's protective preferences and reservations against unconditioned liberalisation of regional trade in the respective sectors and aim to prevent dumping and unwelcome competition towards the country's economy from within and outside the region (Erasmus et al., 2004: 6-21; Lee, 2003: 122 ff). The comparably huge influence of the region's dominant power on the design and core issues of this regional trade agreement does not come as surprise if one takes the country's capacity and the hub-and-spoke character of the intra-regional economic interdependence and FDI-flows in SADC into consideration. Thus, South Africa's role in the economic integration process remains crucial and the success and depth of market integration will to a strong degree depend on the preferences of this particular country. Not least, the ambiguous character of the Protocol reflects equally the diverging interests of major domestic actors on the issue of regional (economic) integration.

Direct leverage from extra-regional actors on the design of the Protocol seems to be non-existent at the time of negotiations. However, the urge of international finance institutions, trading partners and process of globalisation have surely contributed to a shift of many of the SADC-region's countries towards a more receptive attitude on trade liberalisation and market integration. An actual problem for the process of deeper economic integration within the whole SADC is likely to emerge from overlapping memberships in different regional integration schemes and Economic Partnership-Agreement (EPA) groupings (Krapohl and Muntschick, 2008). Here, the importance of the countries' inter-regional versus intra-regional trade relations may come into play and put the cohesion of the 'spokes' to the South African 'hub' to the test if no third solution will be found.

The Protocol seems to show certain impact on intra-regional trade but a simplification of RoO and mitigation of protectionist interests (in the RSA) would surely boost its effects.

Appendix

Table 1: Share of intra-regional Trade of SADC countries in the year 1999

Year / Country	1999	
	% of total Exports to SADC	% of total Imports from SADC
Angola	0,7*	9,75*
Botswana	13,62	81,76
DR Congo	< 1*	26,1*
Lesotho	46,57	92,66
Madagascar	4,89	6,39
Malawi	16,69	47,7
Mauritius	1,36	11,54
Mozambique	44,74	29,79*
Namibia	33,77	82,77
Seychelles	1,68	13,11
South Africa	12,48	1,69
Swaziland**	75,42	93,75
Tanzania	7,37	11,57
Zambia	11,39	49,19
Zimbabwe***	28,15	45,59

Trade data generated with the help of the *World Integrated Trade Data Solution* (WITS): <http://wits.worldbank.org/witsweb/default.aspx> (05/05/2009).

WITS uses combined data from *United Nations Statistical Division* of the *United Nations Conference on Trade and Development* (UNCTAD) and the *World Trade Organisation* (WTO).

* Data according to the UNCTAD Statistical Yearbook 2007:

http://stats.unctad.org/handbook/ReportFolders/ReportFolders.aspx?CS_referer=&CS_ChosenLang=en (03/05/2009).

** Data from the year 2000.

*** Data according to (Eca, 2003).

Table 2: South African (SA) Investment in other SADC Countries 1994-2003

Country	SA's FDI as % of total FDI	SA ranking as investor
Angola	1 %	6
Botswana	58 %	1
DRC	71 %	1
Lesotho	86 %	1
Malawi	80 %	1
Mozambique	31 %	1
Namibia	21 %	3
Swaziland	71 %	1
Tanzania	35 %	2
Zambia	29 %	1
Zimbabwe	24 %	3

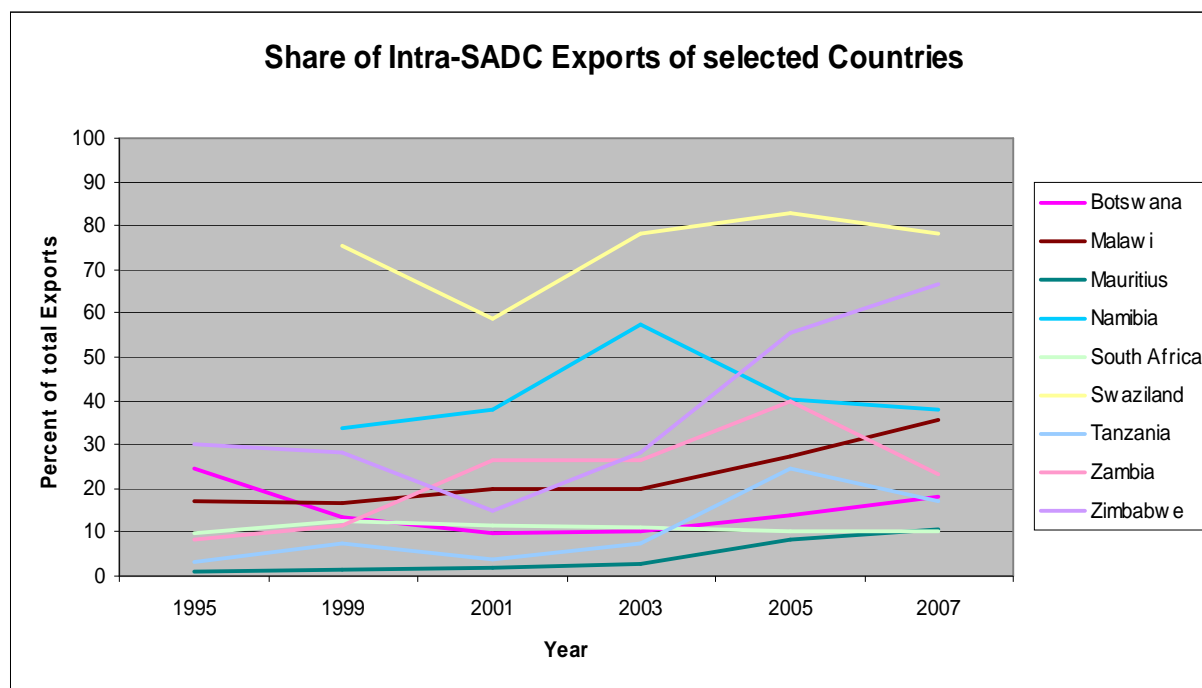
Data according to (Grobelaar, 2004: 95).

Table 3: Growth of selected member countries Exports and Imports to SADC

Country	Exports to SADC: Annual growth in value between (2002-2006) in %	Imports from SADC: Annual growth in value between (2002-2006) in %
Botswana	176	35
Lesotho	125	124
Madagascar	-4	38
Malawi	26	18
Mauritius	9	-2
Mozambique	14	22
Namibia	124	97
South Africa	15	61
Swaziland	19	26
Tanzania	47	26
Zambia	20	22
Zimbabwe	23	13

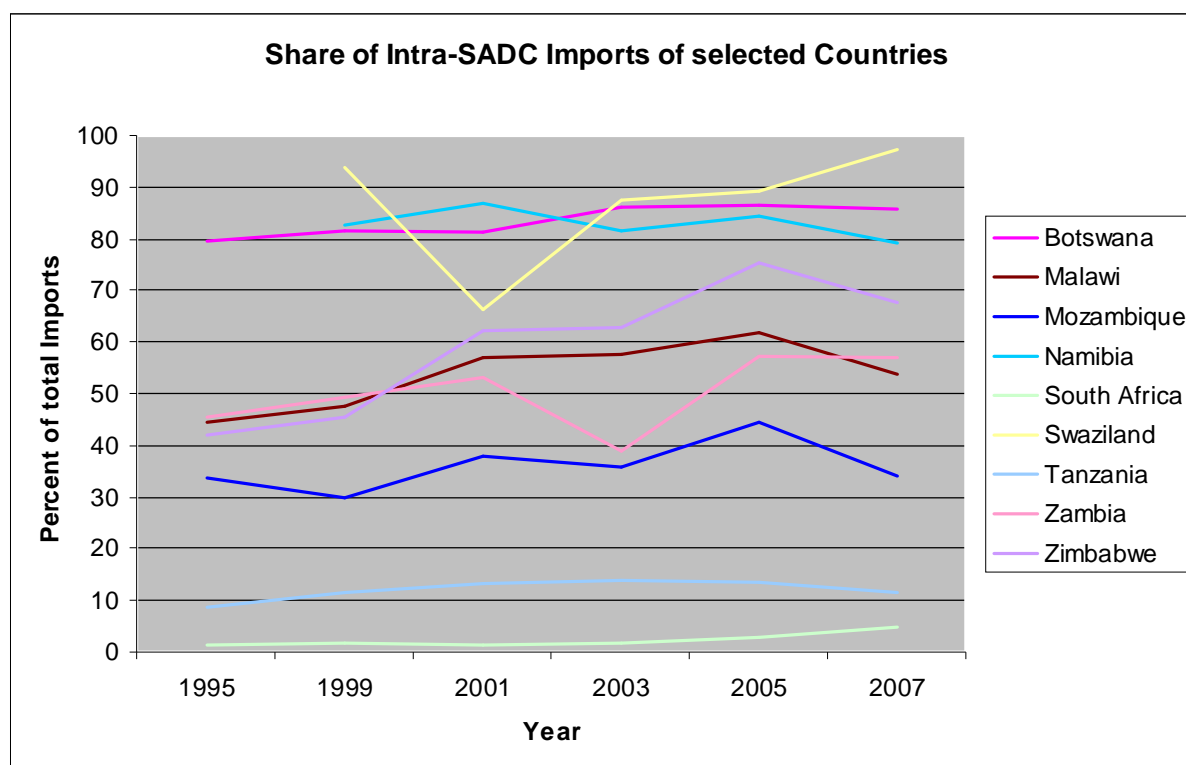
Data according to TIPS SADC Trade Database (<http://www.tips.org.za/data/login/trademap>) (02/14/2009).

Table 4: Share of Intra-SADC Exports of selected member countries



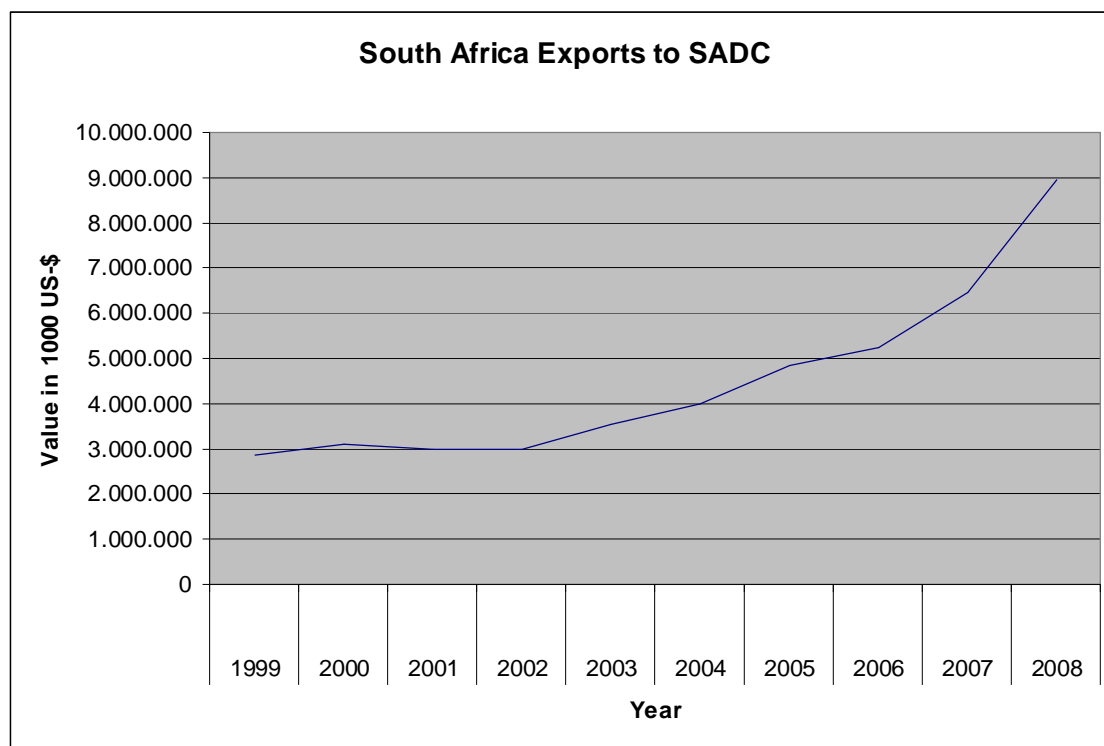
Trade data generated with the help of the *World Integrated Trade Data Solution* (WITS): <http://wits.worldbank.org/witsweb/default.aspx> (05/05/2009) and the TIPS SADC Trade Database (<http://www.tips.org.za/data/login/trademap>) (02/14/2009).

Table 5: Share of Intra-SADC Imports of selected member countries



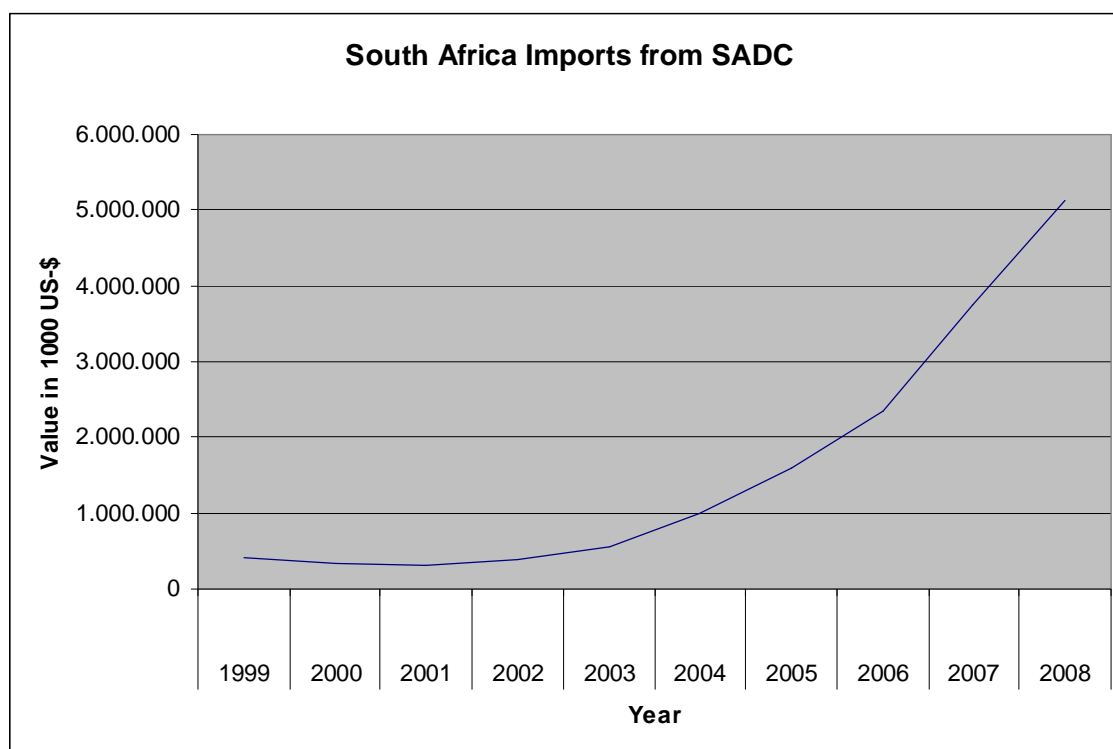
Trade data generated with the help of the *World Integrated Trade Data Solution* (WITS): <http://wits.worldbank.org/witsweb/default.aspx> (05/05/2009) and the TIPS SADC Trade Database (<http://www.tips.org.za/data/login/trademap>) (02/14/2009).

Table 6: South Africa's absolute Exports to SADC



Trade data generated with the help of the *World Integrated Trade Data Solution* (WITS): <http://wits.worldbank.org/witsweb/default.aspx> (05/05/2009) and the TIPS SADC Trade Database (<http://www.tips.org.za/data/login/trademap>) (02/14/2009).

Table 7: South Africa's absolute Imports from SADC



Trade data generated with the help of the *World Integrated Trade Data Solution* (WITS): <http://wits.worldbank.org/witsweb/default.aspx> (05/05/2009) and the TIPS SADC Trade Database (<http://www.tips.org.za/data/login/trademap>) (02/14/2009).

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